

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1127 Limiting Subject of Constitutional Amendments Proposed by Citizen Initiative

SPONSOR(S): Beltran

TIED BILLS: **IDEN./SIM. BILLS:** SJR 1412

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee		Roy	Rubottom
2) Judiciary Committee			

SUMMARY ANALYSIS

The Florida Constitution may be amended if voters approve an amendment proposed by the Legislature.

An initiative proposal may be invoked by filing with the custodian of state records a petition containing the proposed revision or amendment, signed by a number of electors in each of half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of the districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen. The petition must be filed with the custodian of state records by February 1 of the year in which the general election is held.

Proposals by the legislature to amend a section or revise one or more articles, or the whole, of the Florida Constitution may be proposed by joint resolution agreed to by three-fifths (3/5) of the membership of each house of the legislature. The resolutions are not subject to the veto power of the Governor but are filed by the Legislature directly with the Secretary of State. Once approved, such proposals are submitted to the voters at the next general election.

HJR 1127 proposes an amendment to Section 3 of Article XI of the Florida Constitution limiting the scope of constitutional revisions and amendments proposed by initiative. Such proposals would be limited to matters relating to procedural subjects or to the structure of the government. If approved by 3/5 of the membership of each house of the Legislature, the amendment would be placed on the 2022 general election ballot. If the amendment is approved by 60% of voters, it would be effective the first Tuesday after the first Monday in 2023.

The bill provides a ballot statement consisting of a 14 word title and a 36 word summary. The summary reflects the substance of the proposed amendment word for word.

The bill is likely to have an insignificant fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Constitution is the charter of the liberties of Floridians.¹ It may be amended only if the voters approve an amendment originating from the Legislature, the Constitution Revision Commission, the Taxation and Budget Reform Commission, a constitutional convention, or a citizen initiative.² A citizen initiative must embrace only one subject³, unless it concerns limiting the power of government to raise revenue, but proposals originating from the other sources are not so limited.⁴

An initiative proposal may be invoked by filing with the custodian of state records a petition containing the proposed revision or amendment, signed by a number of electors in each of half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of the districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen. The petition must be filed with the custodian of state records by February 1 of the year in which the general election is held.⁵

Proposals by the legislature to amend a section or revise one or more articles, or the whole, of the Florida Constitution may be proposed by joint resolution agreed to by three-fifths (3/5) of the membership of each house of the legislature.⁶ The resolutions are not subject to the veto power of the Governor but are filed by the Legislature directly with the Secretary of State.

Joint resolutions that propose a constitutional amendment or revision must include:

- One or more ballot statements set forth in order of priority.
- Consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language.
- In the joint resolution contains only one ballot statement, the ballot summary may not exceed 75 words in length.
- If the joint resolution contains more than one ballot statement, the first ballot summary, in order of priority, may not exceed 75 words in length.
- The Department of State shall furnish a designating number⁷ and the appropriate ballot statement to the supervisor of elections of each county.
- The ballot statement must be printed on the ballot after the list of candidates, followed by the word “yes” and also by the word “no,” and shall be styled in such a manner that a “yes” vote will indicate approval of the amendment or revision and a “no” vote will indicate rejection.

Proposed constitutional amendments that qualify for ballot placement are placed on the ballot by the Secretary of State in the order they are received in the Secretary’s office.

Proposed Changes

¹ Browning v. Fla. Hometown Democracy, Inc., PAC, 29 So. 3d 1053, 1064 (Fla. 2010) (internal citations omitted).

² Art. XI, Fla. Const.

³ Art. XI, s. 3, Fla. Const.

⁴ Art. XI, ss. 1, 2, 4, 6, Fla. Const. The taxation and budget reform commission is limited to proposing constitutional revisions dealing with taxation or the state budgetary process. Art. XI, s. 6(e), Fla. Const.

⁵ Art. XI, s. 5(b), Fla. Const.

⁶ Art. XI, ss. 1, Fla. Const

⁷ S. 101.161(2), F.S.

HJR 1127 proposes an amendment to Section 3 of Article XI of the Florida Constitution addressing the power to propose a revision or amendment of the Florida Constitution by initiative. The amendment would limit a constitutional amendment proposed by initiative to matters relating to procedural subjects or to the structure of the government or of the Florida Constitution.

The bill also provides a ballot statement consisting of a 14 word title and a 36 word summary. The summary reflects the substance of the proposed amendment word for word.

If approved by the required legislative majorities, and by 60% of electors voting on the question, the amendment would be effective on the first Tuesday after the first Monday in January following the general election.⁸

B. SECTION DIRECTORY:

Joint Resolutions are not divided by section.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, s. 5(d) of the Florida Constitution requires publication of a proposed amendment in a newspaper of general circulation in each county. The Division of Elections within the Department of State must advertise the full text of the amendment twice in a newspaper of general circulation in each county where the amendment will appear on the ballot. The Division must also provide each supervisor of elections with either booklets or posters displaying the full text of each proposed amendment.⁹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁸ Art. XI, s. 5(e), Fla. Const.

⁹ S. 101.171, F.S.

2. Other:

The constitution provides that an amendment proposed by the Legislature shall be placed on the ballot if approved by a 3/5 vote of the membership of each house of the Legislature.¹⁰ A number of controversial judicial opinions have stricken legislative proposals based on the court's interpretation of the proposal and the ballot summary laws. Amendments to the ballot law in 2011 mitigated the court's opportunity to strike legislative proposals from the ballot.¹¹

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

¹⁰ Art. XI, s. 1, Fla. Const.

¹¹ S. 29, ch. 2011-40, L.O.F.